

FLORIDA DEATH CERTIFICATES: WHAT PHYSICIANS NEED TO KNOW

To sign a death certificate in Florida, do I have to be present at the bedside when my patient dies? No. A Florida licensed physician may sign the death certificate on an attended death. Florida Statute, Chapter 382 and Attorney General Opinion 94-103 define a "*death without medical attendance*" as a death occurring more than 30 days after the decedent was last treated by a physician, except where death was medically expected as certified by an attending physician. Notice the key word is "treated" not "seen" or "visited". Clearly, "attended" does not mean present at the bedside or death scene. Treated includes office visits/communication or current prescriptions and usually involves a potentially life threatening illness or extreme old age. Obviously, if your 90 year old patient with angina who you have not seen in your office in 4 months dies in his sleep with a current refilled bottle of nitroglycerin tablets you prescribed, and the police call you and inquire about the decedent informing you there are no signs of foul play, this is an attended death and you should and, indeed, are legally obligated to sign the death certificate. Deaths at home are reported to the Medical Examiner Department and you should put "yes" in box 28 in the lower right hand portion of the death certificate that asks "Case reported to Medical Examiner?" If the Medical Examiner Department declines jurisdiction involving one of your patients, a "yes" in box 28 ensures that any future allegations of foul play involving the death are placed on the Medical Examiner and/or the law enforcement agency involved. The physician signing the death certificate in a circumstance like the one outlined above is merely following through with his/her statutory obligations as a physician.

The Statute also gives the physician the option to sign other death certificates in cases the physician feels are medically expected. An example could be a long term hypertensive patient that refused medication and the physician felt that the death was inevitable.

If I had repeatedly seen a patient and the patient was noncompliant with my treatment recommendations for a potentially life threatening medical illness, do I still have to sign the death certificate? Yes. What better case to sign the death certificate. As the patient's physician, you are the most familiar with his/her medical illness because you (or your medical consultants) diagnosed it and recommended a treatment plan. By not following the treatment plan you recommended, the patient would likely ensure his eventual demise from that illness.

What could be a potentially life threatening illness? Life threatening illnesses could include hypertensive or atherosclerotic cardiovascular disease, diabetes mellitus, emphysema, carcinoma of the lung, etc. These would be considered as valid causes of death to list on the death certificate. Other minor medical conditions such as osteoarthritis, acne, etc would not be considered life threatening unless complicated by other conditions (e.g. 99 years of life). If a physician is treating a patient for a condition that is not considered life threatening (this does not include "mild" or "controlled" hypertension in a person over 50-60 years of age), this may fall under the jurisdiction of the Medical Examiner as a person dying "Suddenly, when in apparent good health" (406.11).

If I am covering for a vacationing colleague (locum tenens), should one of my colleague's

patients die during my coverage period, do I have to sign the death certificate? You have agreed to cover your colleague's practice and, obviously this means office visits, prescriptions, and phone consultations on patients where your knowledge comes solely from the medical records your colleague has compiled. The confidence you need to refill a prescription on one of your colleague's patients based on the medical record has to be great as you are treating a living being. To use that same medical record to fill out a legal document on a patient that is dead and can no longer be medically harmed should be an easy task by comparison. You have agreed to cover a colleague's practice and completing death certificates is by Statute a legal obligation of Florida physicians where one of their patients dies a natural death.

The Florida DEATH CERTIFICATE actually has an accommodation for such a situation in box 22d which asks for "Name of attending physician if other than certifier". The covering physician can put his colleague's name in box 22d and sign as certifier.

If one of my patients dies in an emergency room, should I expect the ER doctor to sign the death certificate? In most circumstances the primary care physician should sign the death certificate in natural deaths. The emergency room doctor typically does not know your patient and is not familiar with your patient's medical history. The ER doctor often is delivered a patient in full cardiac arrest, and no diagnostic tests have been performed. In order for the ER doctor to correctly assign a cause of death he/she would have to consult with you and rely on medical diagnoses you made. Clearly, in cases like this the primary care physician should sign the death certificate if the patient has a documented medical condition capable of causing sudden death and the circumstances of death exclude an unnatural cause. If one of your patients is admitted and medical tests and presumptive or confirmed medical diagnoses have been made, either you or the hospital admitting physician may sign the death certificate. In a death involving a patient under the care of several physicians, the Medical Examiner has no official role in determining which physician is responsible for signing the death certificate and, certainly, will not take jurisdiction due a death certificate signing dispute between physicians.

What is a valid cause of death? The cause of death is the underlying disease or injury that results in death. Valid causes could include: Diabetes mellitus, lung cancer, atherosclerotic cardiovascular disease, hypertensive cardiovascular disease, etc.

The cause of death line (26 part 1) should never be left blank!

What causes would be considered invalid? CARDIORESPIRATORY ARREST, RESPIRATORY FAILURE, HEART FAILURE, CARDIAC ARREST, SHOCK, SEPSIS, BLOOD LOSS, BOWEL PERFORATION, LIVER FAILURE, RENAL FAILURE are all modes of dying not diseases, or injuries. Indeed, many of the above are listed as invalid on the death certificate (line 26 part 1), yet physicians commonly put these invalid items as causes of death. Other causes of death may be technically valid but are best not left to stand alone on the death certificate. An example would be PULMONARY EMBOLISM which is usually a complication of another process such as immobilization due to trauma or natural disease processes.

Why is cardiac or respiratory arrest an invalid cause of death? It's invalid because everyone that dies eventually has a cardiorespiratory arrest! For example, if a death certificate lists cardiac arrest, that cardiac arrest could conceivably be the result of a gunshot wound, a knife wound, or a myocardial infarction. A common invalid listing as the sole cause of death is renal failure which could be the result of diabetes mellitus, or homicidal poisoning.

How should I fill out the cause and contributory causes of death on the death certificate (parts I and II)? In Part I, the immediate cause should be listed on the top line with the underlying cause(s) below. For example in a death due to mesothelioma associated with asbestos (of course), part I should look like this:

Mesothelioma
Due to
Asbestosis

Not Asbestosis
Due to
Mesothelioma

Of course, the second example makes no sense, but, unfortunately, entries like it have appeared on death certificates. Brain cancer due to Respiratory arrest is probably one of the most heinous examples.

Part II should list contributory causes that are not directly a complication or consequence of the main (part I) cause of death. For example, in the scenario above, if the patient had a history of coronary artery disease, one may put coronary artery disease or atherosclerotic cardiovascular disease in part II as long as it is not considered the primary cause of death or related to it (in this case mesothelioma is unrelated to the CAD).

The Physicians' Handbook on Medical Certification of Death
http://www.cdc.gov/nchs/data/misc/hb_cod.pdf is an excellent resource to answer your questions.

What is manner of death and what should be put in box 31 as the manner of death? Box 31 on the death certificate (located on the left lower corner of the d/c) should always be completed. As a Florida physician you can only put "natural" in box 31. If you have a question or doubt that the death you are certifying is anything other than a natural death, you should call the Miami-Dade County Medical Examiner Department at 305-545-2400, and discuss the case with one of the Medical Examiners or Medical Examiner Investigators. The Medical Examiner may assume jurisdiction if the circumstances fall within Florida Statute, Chapter 406.

What would be considered trauma and how would I go about contacting the Medical Examiner Department if I have a question regarding a particular case? If a patient's death is directly related to trauma, the death would be a Medical Examiner case. In cases where trauma contributes to the death, Spitz and Fisher's MEDICOLEGAL INVESTIGATION OF DEATH says it best "...furthermore, many physicians are unaware of the medicolegal approach to the determination of the manner of death when both natural and unnatural causes of death coexist. A simple rule of thumb states that if an unnatural cause of death (trauma, drug overdose, electrocution, drowning, etc.) plays a contributory role in the death, then the manner of death is unnatural (i.e., accidental, suicidal or homicidal), and, therefore, the case falls under the jurisdiction of the medical examiner." Oftentimes trauma is present, yet it does not contribute to the death. Hip fractures are typical contributors of death. If a person falls and fractures a hip and during the healing process suffers a deep venous thrombosis and then a pulmonary embolism, the death is related to the traumatic hip fracture and, therefore, is accidental. A similar case involving a pathological hip fracture due to metastatic carcinoma would be considered a natural death (no trauma was involved). If a person with a hip fracture dies due to a disease process unrelated to a hip fracture (or any other antemortem trauma), the death would

be considered natural. In complicated or confusing cases, the Miami-Dade County Medical Examiner Department can be an excellent resource of information regarding death certification.

The Medical Examiner Office main number is 305-545-2400. This number is answered 24 hours per day seven days per week.

After I report the case to the Medical Examiner, what do I do? If the Medical Examiner assumes jurisdiction you will not sign the death certificate. One of the physicians at the Medical Examiner Department will perform an examination or autopsy on the decedent and will sign the death certificate. **If the Medical Examiner declines jurisdiction in a patient that you have treated in the last 30 days (this includes office visits/communication, or prescription medication), you are required to sign the death certificate within 72 hours (see enclosed FL Statute sections 382.008 and 382.026).** If you have any questions regarding what to list as the cause of death, the Miami-Dade County Medical Examiner Department is an excellent resource of knowledge in that regard. In box 28 of the death certificate that asks "Case reported to the Medical Examiner?", mark "yes".

Should I be concerned about any civil or criminal liability in signing a death certificate?

The death certificate is the last act of patient care performed by the attending physician. As a legal document, the death certificate merely documents a change in status of a person from living to dead and lists a cause and manner of death for Vital Statistics. It does not infer that the death is the fault of the physician certifying the death.

A minority of physicians think that if they refuse to sign the death certificate, the Medical Examiner will assume jurisdiction and somehow rescue them from any medical malpractice claim or the like. If the case does not fit the circumstances outlined in 406.11, the Medical Examiner will not assume jurisdiction, and the attending doctor is legally obligated to sign the death certificate. In signing such a death certificate, the attending physician is merely completing a legally obligated last act of patient care. If a physician refuses to sign a death certificate regarding a patient treated in the last 30 days, the physician is violating the provisions of Statute 382. The decedent and family are left in a sort of funeral home limbo. When the physician (often a doctor who has treated the patient for years) refuses to sign the death certificate despite legal and fiduciary obligations, the body cannot be interred or cremated. This puts the funeral home and family in a difficult situation in a time when grief should be their only burden. If a physician wants to avoid liability, refusing to sign a death certificate is not the way to go about it.

If a physician has legitimate concerns that the death is anything but natural, he/she should contact the Medical Examiner. If the case fits the guidelines listed under FL Statute 406.11, the Medical Examiner will assume jurisdiction. A person who knowingly fails to report such a case to the Medical Examiner, shall be guilty of a first degree misdemeanor (see 406.12).

The 2001 Florida Statutes, Title XXIX, Public Health Chapter 406, Medical Examiners

406.11 Examinations, investigations, and autopsies.--

(1) In any of the following circumstances involving the death of a human being, the medical examiner of the district in which the death occurred or the body was found shall determine the cause of death and shall, for that purpose, make or have performed such examinations, investigations, and autopsies as he or she shall deem necessary or as shall be requested by the state attorney:

(a) When any person dies in the state:

1. Of criminal violence.
2. By accident.
3. By suicide.
4. Suddenly, when in apparent good health.
5. Unattended by a practicing physician or other recognized practitioner.
6. In any prison or penal institution.
7. In police custody.
8. In any suspicious or unusual circumstance.
9. By criminal abortion.
10. By poison.
11. By disease constituting a threat to public health.
12. By disease, injury, or toxic agent resulting from employment.

(b) When a dead body is brought into the state without proper medical certification.

(c) When a body is to be cremated, dissected, or buried at sea.

(2)(a) The district medical examiner shall have the authority in any case coming under subsection (1) to perform, or have performed, whatever autopsies or laboratory examinations he or she deems necessary and in the public interest to determine the identification of or cause or manner of death of the deceased or to obtain evidence necessary for forensic examination.

(b) The Medical Examiners Commission shall adopt rules, pursuant to chapter 120, providing for the notification of the next of kin that an investigation by the medical examiner's office is being conducted. A medical examiner may not retain or furnish any body part of the deceased for research or any other purpose which is not in conjunction with a determination of the identification of or cause or manner of death of the deceased or the presence of disease or which is not otherwise authorized by this chapter, part X of chapter 732, or chapter 873, without notification of and approval by the next of kin.

(3) The Medical Examiners Commission may adopt rules incorporating by reference parameters or guidelines of practice or standards of conduct relating to examinations, investigations, or autopsies performed by medical examiners.

History.--s. 6, ch. 70-232; s. 26, ch. 73-334; s. 1, ch. 77-174; s. 1, ch. 87-166; s. 29, ch. 97-103; s. 3, ch. 98-253.

406.12 Duty to report; prohibited acts. –

It is the duty of any person in the district where a death occurs, including all municipalities and unincorporated and federal areas, who becomes aware of the death of any person occurring under the circumstances described in s. 406.11 to report such death and circumstances forthwith to the district medical examiner. Any person who knowingly fails or refuses to report such death and circumstances, who refuses to make available prior medical or other information pertinent to the death investigation, or who, without an order from the office of the district medical examiner, willfully touches, removes, or disturbs the body, clothing, or any article upon or near the body, with the intent to alter the evidence or circumstances surrounding the death, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.--s. 7, ch. 70-232; s. 353, ch. 71-136.

CHAPTER 382 Florida Statutes VITAL STATISTICS (2000)

382.008 Death and fetal death registration.--

- (2) The funeral director who first assumes custody of a dead body or fetus shall file the certificate of death or fetal death. In the absence of the funeral director, the physician or other person in attendance at or after the death shall file the certificate of death or fetal death. The person who files the certificate shall obtain personal data from the next of kin or the best qualified person or source available. The medical certification of cause of death shall be furnished to the funeral director, either in person or via certified mail, by the physician or medical examiner responsible for furnishing such information. For fetal deaths, the physician, midwife, or hospital administrator shall provide any medical or health information to the funeral director within 72 hours after expulsion or extraction.
- (3) Within 72 hours after receipt of a death or fetal death certificate from the funeral director, the medical certification of cause of death shall be completed and made available to the funeral director by the physician in charge of the decedent's care for the illness or condition which resulted in death, the physician in attendance at the time of death or fetal death or immediately before or after such death or fetal death, or the medical examiner if the provisions of s. 382.011 apply. The physician or medical examiner shall certify over his or her signature the cause of death to the best of his or her knowledge and belief.

382.011 Medical examiner determination of cause of death.--

- (1) In the case of any death or fetal death due to causes or conditions listed in s. 406.11, or where the death occurred more than 30 days after the decedent was last treated by a physician unless the death was medically expected as certified by an attending physician, or where there is reason to believe that the death may have been due to unlawful act or neglect, the funeral director or other person to whose attention the death may come shall refer the case to the medical examiner of the district in which the death occurred for investigation and determination of the cause of death.
- (2) The medical examiner shall complete and sign the medical certification of cause of death of the death or fetal death certificate within 72 hours after notification, whether or not final determination of the cause of death has been established, unless an extension has been granted as provided under s. 382.008. Any amendment fees prescribed in s. 382.0255 shall be waived when a later determination of cause of death is made.

History.--s. 8, ch. 6892, 1915; RGS 2077; CGL 3277; s. 9, ch. 87-387; s. 666, ch. 95-148; s. 94, ch. 97-237. Note.--Former s. 382.10.

382.026 Penalties—

- (1) Any person who willfully and knowingly makes any false statement in a certificate record, or report required by this chapter, or in an application for an amendment thereof, or in an application for a certified copy of a vital record, or who willfully and knowingly supplies false information, intending that such information be used in the preparation of any such report, record, or certificate, or amendment thereof, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083 or s. 775.084.
- (6) Any person who is authorized by this chapter to certify to the cause of death of a person and who charges a fee for making such certification commits a misdemeanor of the second degree, punishable as provided in s. 775.082, or s. 775.083.
- (8) Except where a different penalty is provided for in this section, any person who violates any of the provision of the chapter, or the rules and regulations of the department, or who neglects or refuses to perform any of the duties imposed upon him or her thereunder, commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083
- (9) In addition to any other sanction or penalty authorized by law, the department may impose a fine which may not exceed \$1000 for each violation of this chapter or rules adopted thereunder. Each day that a violation continues may constitute a separate violation. In determining the amount of any fine to be imposed for a violation, the department shall consider the following factors:
 - (a) The gravity of the violation or extent to which the provisions of the applicable statute or rule were violated.
 - (b) Any action taken by the alleged violator to correct the violation or assure that the violation will not reoccur.
 - (c) Any previous violation.